UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
--X
DAVID BENGOA and JOSE COLULA, on behalf of themselves and others similarly situated,

Plaintiffs,

DOCKET NO. 13-cv-00788 (JMA)

NOTICE OF MOTION

-against-

M&F RESTAURANT CORPORATION d/b/a SPOLINI'S ITALIAN RESTAURANT, and SERGIO LAZZINARO,

Defendants.
--X

PLEASE TAKE NOTICE that upon the annexed Affirmation of Austin Graff, affirmed to on the 4th day of October 2013, the exhibits annexed thereto, the Defendants M&F RESTAURANT CORPORATION d/b/a SPOLINI'S ITALIAN RESTAURANT, and SERGIO LAZZINARO will move this Court before the Honorable Joan M. Azrack, U.S.M.J., United States District Court United States District Court, Eastern District of New York, 225 Cadman Plaza East, Brooklyn, New York 11201 on **November 7, 2013** for an Order pursuant to Rule 41(b) of the Federal Rules of Civil Procedure, granting the Defendants' Motion to Dismiss this Action without prejudice, with respect to DAVID BENGOA **only**, together with such other, further and different relief as the Court may deem just and proper in the circumstances and the costs and disbursements of this motion.

Dated: Carle Place, New York
October 4, 2013

THE SCHER LAW FIRM, LLP
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